

## BEFORE THE DIVISION OF WATER RIGHTS

In The Matter Of:  <b>Weber Canal Company Attn: Rodney Spencer, President RESPONDENT</b>	<b>MEASURING DEVICE NOTICE</b>  SEAA No. 2068 DISTRIBUTION ACCOUNT: 103318 WATER RIGHT: 35-8185
--	---

### I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4, and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4 states in part :

*(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*

- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*

*(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*

*(3) The state engineer shall approve the design of:*

- (a) the measuring device; and*
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

*(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*

- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

### II. STATEMENT OF FACTS

1. Respondent diverts water from the Weber River under the above-referenced water right.
2. Water Right 35-8185; (4.0693 ft<sup>3</sup>/second low flow).
3. Respondent's diversion is regulated and reported by the Water Commissioner and Deputy Water Commissioner under the direction of the State Engineer's Office/Division of Water Rights.
4. Respondent owns/operates a concrete 4-ft Parshall Flume measuring device.
5. The flume is not level. The water depth is greater on the right side of the flume than on the left side.

### III. ACTIONS REQUIRED

1. Respondent must install another staff gage on the right (low NE side) of the flume opposite the other gage at a distance of 1/3 of the length of the converging section wall from the upstream end. The average of these two readings represents the water height or depth within the flume from which the measurement is made.
2. **The work must be completed on or before October 15, 2017.**

#### IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (6).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25.
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

#### V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Mike Drake  
*Regional Engineer*  
*Western Region*  
*Utah Division of Water Rights*  
*Weber Office*  
*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

or

Ben Anderson  
*Distribution Engineer*  
*Utah Division of Water Rights*

1594 W North Temple Ste 220  
P.O. Box 146300  
Salt Lake City, UT 84114-6300  
(801) 538-7240

Dated this 11<sup>th</sup> day of July, 2017



Ben L. Anderson, P.E.  
Distribution Engineer

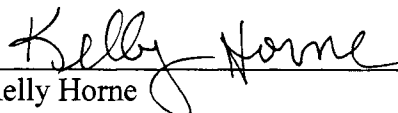
CERTIFICATE OF MAILING

I, the undersigned, certify that on this 11<sup>th</sup> day of July, 2017, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Rodney Spencer, President  
Weber Canal Company  
PO Box 457  
Morgan, UT 84050**

USPS TRACKING #  
& CUSTOMER  
RECEIPT

**9114 9999 4423 8701 8654 69**  
For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.



Kelly Horne  
Division of Water Rights  
Field Services Secretary

cc: Mike Drake, Regional Engineer  
Cole Panter, Water Commissioner